

Islam and Feminism: Contextualizing Gender Equality with reference to Pakistan

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Abstract

Feminism defines itself in geo-political and socio-cultural context with an emphasis on gender equality. With similar slogans of equality feminists from east investigated religious paradigms who later known as Islamic feminists. They aimed to equate women at social, political and legal level by providing evidences from Qur'an and Sunnah. Islam is a universal religion that embodies social welfare by offering a systematized system wherein each individual has defined role. These identified roles are interpreted in terms of gender discrimination by male orthodoxy. The current study aims to highlight the role of Muslim women prescribed in Qur'an and Sunnah by exemplifying unbiased attitude of Islam towards gender. The research aims to highlight the status of women in Pakistan and Islamic perspective by highlighting the contemporary social and legislative developments. The present study is a qualitative approach based on secondary sources towards the study of feminism and Islamic feminism. The information is collected from books, journals, religious scripts and other related sources. The study will be significant to trace what impact Islamization means in Pakistan with reference to gender inequality in society of Pakistan. The paper will finally conclude that the woman of the Islamic community has full rights to exercise her social, political and legal rights but due to the patriarchal construction of Pakistani society she is restricted to her domestic fence.

Keywords: Feminism, Islamic Feminism, Socio-Political Equality, Rights of Woman.

Introduction:

Feminism defines itself in geo-political and socio-cultural context with an emphasis on gender equality. These varying contexts of feminist' contemplation spawns disparate understanding of the term equality, what is it and how it can be achieved. Woman in Islamic world interprets this term in the context of Islam that provides comprehensive amount of references to elaborate their rights with no discrimination based on gender. Islam has defined the roles of both genders by giving privilege to those who fear Allah.

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The present paper emphasizes on the normative teachings of Islam as the criteria to judge Muslim practices specifically in Pakistan and evaluate their compliance with Islam. It will be significant to explore the spiritual, social, economical and legal prospects defined by Islam to avoid the possible controversies of overpowering women. Through the consultation of primary sources that are Qur'an and Sunnah, it has been learned that Islam is not working out the lines of misogyny instead it has given women those rights that non-Muslim women achieved after many efforts. These defined rights are devoid of any cultural or social context; however, through interpretation of these primary sources male orthodoxy has associated women to four walls of her home by propagating the binaries of superior and inferior. This paper is a brief review of the position and role of woman in Pakistani society from an Islamic perspective by dividing the topic into spiritual, economic, social, and legal/political aspects.

Feminism:

The term feminism has a history of definitions and explanations since its emergence in 1880. The word feminism was first coined by Hubertine Auclert to describe the gender inequality by claiming women emancipation and indiscrimination within the society that later developed as a core instigator of many social and academic movements.¹ Propounded in France and developed first in America and then in Britain, feminism gradually paths its way all around the world. With the gradual developments feminism aimed to raise women consciousness towards their rights on the basis of socio-political and religio-cultural equality. The Western origin of the term was essentially aimed to create awareness and liberate the women from the male dominated socio-cultural sphere of life.

In 1789 the outbreak of French Revolution meant that individual rights, reason, citizenship, and the sovereignty of the people were no longer simply ideas, but part of an assault on hereditary power. Their abstract quality was shed as they became part of politics. They gained historical legitimacy and lost their innocence, all in a few short years. It is hard for us to imagine the impact of such an extraordinary event. Power, which had seemed absolute, was overturned. The new dawn of liberty brought fervour of hope.²

By travelling different boundaries, feminism consulted the social, political, cultural, legal and racial issues in the ways demonstrated in their own nature of locality and vicinity. Hence, the globally travelled and acknowledged term feminism had been and still has been striving to be indigenized within different cultural walls with the slogan to rebut male dominance. It argued that women are not bound to behave in particular and confined conservative roles of submission and obedience to man. The biological difference does not locate them in inferior and subordinate social, cultural, legal and political perspectives:

One is not born woman, but rather becomes a woman. No biological, psychological or economic fate determines the figure that the human female presents in society; it is civilization as a whole that produces this creature, intermediate between male and eunuch which is described as feminine.³

The desire of autonomy and equality lead women towards intense changes and diversities in the social and legal systems of a society. However, these achievements and developments vary from country to country in the cultural contexts. The developments promulgated in France, America and Britain were different in their socio-cultural contexts that cannot be certainly applicable or idealized in Muslim countries like Pakistan. Thus, feminism is a global product that is indigenized in the soil of diverse socio-cultural land.

Islamic Feminism:

While crossing Western boundaries the term feminism introduced itself with various alternations and identifications. The term first made its appearance in Muslim world in 1909 when Malak Hifni Nasif published a collection of articles in a book entitled *Al-Nisaiyat*, however, 'politically, in 1923, Egyptian women first used the term 'feminist' to define themselves and their organization "Al-Ittihad al-Nisai' (the Egyptian Feminist Union).⁴ The initial reception of feminism in the Muslim world was based on the socio-cultural gender inequalities by emphasizing the fabricated myths against the female status in Islam. For this regard, a number of writings appeared in the 1990s concerning the position of women in Islam and society. The term 'Islamic feminism' was first used in Turkey by Nilufer Gole in her work *The Forbidden Modern* (published in Turkish in 1991 and in English in 1996), which later appeared in the writings of Iranian, Saudi Arabian, Turkish and African scholars who used the term to reform and reinterpret the socio-cultural and religio-political status of women in Islam. The Islamic feminists propagate to define women autonomy within the parameters of tradition and modernity by challenging as well as reforming social, political and legal institutions that is known as what Deniz Kandioti called "bargaining with patriarchy."⁵

Islamic feminism, with its claim to multiple affiliations and identities, is often contested by some western feminists as well as some western-oriented feminists from Muslim countries, according to whom Islam and feminism are necessarily incompatible.⁶

These feminist scholars attempt to define women subjugation imposed by Islam that refutes the idea of women as autonomous beings. As Leila Ahmed pointed out:

Although Western feminists have succeeded in rejecting their culture's myths about (Western) women and their innate inferiority and irrationality, they continue to subscribe to and

perpetuate those myths about Muslims, including Muslim women, and about harems as well as to assume their superiority towards the women within them.⁷

This perspective defines Islamic feminism in Modern and Western world view according to which Islam is thought to be a conservative religion that has subjugated women in her socio-cultural and religio-political sphere of life. Subjugation of Muslim women is a phenomenon of that has been contextualized in the oriental perception of the East.

Although religion is seen in western societies as one institution among many, it is perceived as the bedrock of the societies in which Islam is practiced....The overall effect of this paradigm is to deprive Muslim women of self-presence, of being. Because women are subsumed under religion defined in fundamental terms, they are inevitably seen as evolving in non-historical time. They have virtually no history. Any analysis of change is therefore foreclosed.⁸

However, the traditional feminists who disintegrate their feminist perspective from this generalized western outlook, interpret the female subjugation as purely male created phenomenon that is legalized under the elucidation of Qur'an and Hadith:

Scholars challenging patriarchal readings of the Qur'an and the Hadith have demonstrated how it is not the texts themselves but rather their interpretations that have allowed for patriarchal traditions to persist.⁹

These scholars uncover the traditions and cultures that are hidden and legalize in the mythical fabrications of Hadith and Qur'anic verses. The main concern of Islamic feminists is to define the role and position of women and for their affirmation they have only source that is Qur'an. However, for this regard they have developed different ways to approach this holy source, few examined sharia's laws as Shaheen Sardar Ali, others re-evaluated Hadith like Hidayet Tuksel and while yet another moved to reinterpret Holy Qur'an like Amina Wadood. Badran identifies three approaches demonstrated by Islamic feminists:

1. Revisiting verses of the Qur'an to correct false stories in common circulation, such as the accounts of creation and of events in the Garden of Eden that have shore up claims of male superiority;
2. Citing verses that unequivocally enunciate the equality of women and men;
3. Deconstructing verses attentive to male and female difference that have been commonly interpreted in ways that justify male domination.¹⁰

These scholars work to employ the biological, social, cultural, economical and political equalities and liberties allocated to women by Islam but misinterpreted and violated by the male counterparts. The Muslim society like Pakistan feminist scholars exist in both extremes. The modern scholars are putting their efforts to bring women outside the domestic sphere in order to fight for their rights however the traditional scholars are digging the original Islamic concept of women by reinterpreting Qur'an and Hadith in order to dig out the original essence of the women identity and status.

History of Feminism in Pakistan:

Pakistani woman since independence is striving hard to attain recognition in both private and public spectrum but however she is still attempting to be identified at least as a human being. She is deprived of her essential rights of education and health. Her life is so miserable and public that can be exploited by anyone at any time and she could not even protected by the people who assert their authority upon her. She is confined solely to the domestic sphere by labelling them as inferior and non-thinking beings and who are the symbols of their family prestige and therefore should be shakled within the four walls of her home. Shamsie cites such brutal practices as: "lawlessness spread, ancient tribal customs were confused with religion, the killing of women in the name of honour increased, and a parallel system of justice, village 'jirga'2 ensured further victimisation".¹¹ Pakistani woman is thought to be an object to serve its male counterpart either physically or emotionally.

The deconstruction of this idea to treat woman as a subservient object of amusement different welfare organizations have made their appearance. All Pakistan Women Association (APWA) lead by Begum Raana Liaquat Ali, played a major role concerning with the health, education and family laws. The second marriage of Prime Minister Mohammad Ali Bogra in 1955 instigated United Front for Women's Rights (UFWR) under the supervision of Begum Shahnawaz Jahan Ara to investigate, along with APWA, the existing laws of marriage, divorce, dower, polygamy and custody of children according to the dictates of Islam. The constitutional developments of Pakistan concerning the recognition of women in the society were highly notable in 1973 in the reign of Zulfikar Ali Bhutto:

1. All citizens are equal and are entitled to equal protection of law;
2. There should be no discrimination on the basis of sex alone, and
3. Nothing shall prevent the state from making any special provision for the protection of women and children.¹²

The controversial clauses of Hudood Ordinance in Zia's regime destabilized this constitution of equality by drawing indiscrimination between rape and adultery. This critical time was passed on through the struggles of Women Action Forum (WAF) who began to go home to home to raise women consciousness for the equality of their rights in social and political spectrum.

However, their efforts went in vein when Zia declared their activities were based on Western agenda. The death of Zia brought new dawn in the history of Pakistan when Benazir Bhutto was elected as the first Woman Prime Minister in the Muslim world who made social, political as well as legal developments to recognize women as human beings and equal citizens of Pakistan:

The setting up of women's police stations; lady health workers, the First Women's Bank; women judges appointed; women's studies centers at universities were established; the twenty year plan for the Beijing Plan of Action developed; funding of many NGOs for women's services made available and in 1996.¹³

The further socio-political and constitutional developments in the reign of Pervez Musharraf recognize woman as an essential citizen of Pakistan with specific reference to his significant revision of Hudood Ordinance in the light of Qur'an and Hadith. Such an amendment protected woman from physical exploitation with the declaration that 'all the sexual acts of men against women under the age of sixteen and marital rape as an offense and these acts would be punishable' under the Pakistani codes of punishments.¹⁴

These constitutional developments have significantly liberated woman from slavery and subordination. However, Pakistani woman is still striving hard to attain her status in the society wherein religion is used as a tool to assert male authority. She cannot access the courts due to the constrained social setup wherein a divorcee, single and unmarried woman is isolated due to her independent and autonomous self assertion. With religious affirmations, she is portrayed as bad and evil woman who instead of living being an obedient subservient chooses to spend her life without a man by taking home matters in public sphere especially as terrorizing as courts.

Gender Equality in Islam:

The evident biological indiscrimination is observed while determining the term equality with reference to men and women. However, this inequality cannot be regarded as substantive instead procedural. Islam regards men and women as equal beings despite of their biological differences in spiritual, social, economical and legal contexts. Qur'an employs clear evidences of equality of both genders who are responsible for their own deeds: "And their Lord responded to them (saying): Never will I allow to be lost the work of (any) worker among you, whether male or female; you are of one another".¹⁵ Allah has created both genders from one soul therefore nobody is superior than another:

(He is) the Creator of the heavens and the earth: He has made for you pairs from among yourselves and pairs among cattle: by this means does He multiply you: there is nothing whatever like unto Him and He is the One that hears and sees (all things).¹⁶

Spiritual Prospect:

Men and women creation from one soul emphasizes that the equal treatment of both genders particularly at spiritual level. The biological differences does not mean the differences in skills and abilities, both are equal in their natural abilities. Men is not the only holder of rewards and blessings of Allah with an emphasize that there should not be any gender discrimination at social or spiritual level. The criterion of superiority is only confined on the basis of 'taqwa'. Qur'an strongly states:

O! Men who surrender unto Allah, and women who surrender, and men who believe and women who believe, and men who obey and women who obey, and men who speak the truth and women who speak the truth, and men who preserve (in righteousness) and women who preserve, and men who are humble and women who are humble, and men who give alms and women who give alms, and men who fast and women who fast, and men who safeguard (their modesty) and women who guard (their modesty), and men who remember Allah much and women who remember—Allah hath prepared for them forgiveness and a vast reward.¹⁷

Qur'an states and restates the equality of both genders with reference to their responsibilities, duties and virtues towards Allah. The faithful distribution of their duties to Allah will give them promised land of paradise in its reward where both will enjoy the eternal fruits and divine blessings: "If any do deeds of righteousness be they male or female and have faith they will enter paradise and not the least injustice will be done to them."¹⁸ Allah keeps on reminding the believing men and women for their eternal reward devoid of any gender bias:

One Day shall you see the believing men and the believing women how their Light runs forward before them and by their right hands: (their greeting will be): "Good news for you this Day! Gardens beneath which flow rivers! To dwell therein forever! This is indeed the highest Achievement!"¹⁹

Holy Qur'an does not employ any reference of gender superiority. However, in different circumstances their duties and roles are disintegrated due to the maintenance of balance in the society. The birth and nurturing child is allocated to woman in response the man is responsible for the sustenance of the family. However, the patriarchal interpretations of this division have confined man's duty as superior whereas woman's as inferior and punishment: "Men are responsible for (qawwamuna 'ala) women because God has given the one more than the other (bima faddala), and because they support them from their means".²⁰ This verse of Qur'an protects women from the hardships of earnings and thus, the man serves woman by taking full responsibility of her financial affairs in response the woman is responsible for bearing and nurturing his children.

Economical Prospect:

Islam provides economic protection to women by giving her property rights before and after the marriage.

Possession of Personal Property:

The woman has a share in the property of her husband and father's property. Qur'an clearly states the inheritance share in property: "There is a share for men and a share for women from what is left by parents and those nearest related, whether, the property be small or large - a legal share".²¹ However, the share of man is two times greater than the woman due to his responsibility of financial sustenance to his family on the other side woman is not compelled to spend her property share in her domestic financial affairs: "Allah commands you as regards your children's (inheritance); to the male, a portion equal to that of two females".²² In Qur'an, Allah clearly states the shares of daughters, mother and widows as well. The daughter's Share is 1/3, if two or more: "... if (there are) only daughters, two or more, their share is two thirds of the inheritance".²³ Moreover, this share of property is 1/2, if there is only one daughter: "... if only one, her share is half".²⁴ The share of the widow is also prescribed in Surah Al-Nisa verse 12: "In what ye leave, their share is a fourth, if ye leave no child; But if ye leave a child, they get an eighth; after payment of legacies and debts". Allah defines the conditions for the share of mother as 1/4 for mother, if the deceased had no children: "... if no children, and the parents are the (only) heirs, the mother has a third" and 1/6 for mother, if deceased had a brother: "... if the deceased left brothers or (sisters), the mother has a sixth".²⁵ According to these revelations Allah has evidently defined the economic stability of women and that negates the idea of superior and inferior gender discrimination. As Allah says:

It is prescribed, when death approaches any of you, if he leaves any goods, that he make a bequest to parents and next of kin, according to reasonable usage. This is due from the God-fearing.²⁶

The law of inheritance in Pakistani constitution gave property rights to women in 1951 after the efforts of APWA. According to this law the inheritance share of property is given to women under the obligation to ensure proper distribution as prescribed by Qur'an and Sunnah: "Allah doth command you to render back your Trusts to those to whom they are due".²⁷

Right of Employment:

The prescribed religious inheritance dues to women ensure women financial stability without any bigoted divisions. The prior duty of women according to Islam is to nurture her children through teachings of Qur'an and Sunnah. Apart from fulfilling this prior duty woman is not restricted to go for employment. The job descriptions that does not demand extensive physical hard work suit best to explore her mental capabilities. The Islamic history provides ample of examples that reveals women who freely exercised their mental abilities in a productive way. The name of

Hazrat Khadija (RA) is significant to state here. She was the first woman who embarrassed Islam. She was a rich woman who used to run her business of trade. In collaboration with the trade caravans she used to invest her money on the basis of profit sharing. She had her trade agents who used to “carry merchandise to other countries and bring back useful items to be sold in Makkah”.²⁸ She was well-known for her kindness and munificence. She became less interested in her business after her marriage to Prophet (PBUH) and she handed over the business matters to Prophet (PBUH). During the time of Prophet (PBUH) ample of instances were found where women were financially independent, in fact they were engaged in many different kinds of jobs as “farming, trading, construction, tool making, bread making, teaching, transporting goods, nursing, health care and defense of the nation were the major economic activities”.²⁹

The woman in Pakistan through legal system is free to choose any profession of her choice. According to a survey on labor force by federal bureau, female employment rate was 14.9% in 2009 and in 2010 this ratio increased to 15.5% while males are 49.5% employed however, the unemployment rate is 9.5% of female whereas male 4.4% unemployed in 2010.³⁰ This rate reveals that the gender discrimination exists at social level wherein woman is associated with the only duty that confines her within the four walls of her home by misrepresenting or misinterpreting the word ‘Qawammah’.³¹

Social Prospect:

Daughters and Wives:

Islam has described the duties of men and women with clear and evident references of Qur’an and Sunnah. For women the amplification of social role are described as a mother, daughter and wife. After the revelation of Qur’an the pre-islamic practices of violence against women were highly projected in Qur’an with specific reference to the female infanticide: “When the female (infant) buried alive is questioned for what crime she was killed”.³² Allah further states about the bias reception of the birth of a female child instead of a male:

When news is brought to one of them of (the birth of) a female (child) his face darkens and he is filled with inward grief! With shame does he hide himself from his people because of the bad news he has had! Shall he retain her on (sufferance and) contempt or bury her in the dust? Ah! what an evil (choice) they decide on!³³

Such a discriminatory treatment is gravely discouraged by Prophet Muhammad (PBUH) by preaching the lessons of kindness and justice towards their daughter without privileging male child over female: "Whosoever has a daughter and he does not bury her alive, does not insult her, and does not favor his son over her, Allah will enter him into Paradise".³⁴ Prophet (PBUH) further illustrates the blessings of Allah in shape of the birth of daughters: "whosoever supports two daughters till they mature, he and I will come in the Day of Judgment as this (and he

pointed with his two fingers held together".³⁵ The marriage in Islam is regarded as the foundations of peace and compassion for both genders. It does not give any kind of privilege of man over woman instead both tied together with love and harmony:

And among His Signs is that He created for you mates from among yourselves that you may well in tranquility with them and He has put live and mercy between your (hearts); verily in that are signs for those who reflect.³⁶

Allah further says:

(He is) the Creator of the heavens and the earth: He has made for you pairs from among yourselves and pairs among cattle: by this means does He multiply you: there is nothing whatever like unto Him and He is the One that hears and sees (all things).³⁷

The female has the right to accept or reject marriage proposals. Her consent is prerequisite to the validity of the marital contract according to the Prophet's teaching. It follows that if by "arranged marriage" is meant marrying the girl without her consent, then such a marriage is nullifiable if she so wished.

"Ibn Abbas reported that a girl came to the Messenger of God, Muhammad, and she reported that her father had forced her to marry without her consent. The Messenger of God gave her the choice ... (between accepting the marriage or invalidating it)".³⁸

The husband is responsible for the maintenance, protection, and overall headship of the family within the framework of consultation and kindness. The mutual dependency and complementary of the roles of males and females does not mean "subservience" by either party to the other:

The mothers shall give suck to their offspring for two whole years if the father desires to complete the term. But he shall bear the cost of their food and clothing on equitable terms. No soul shall have a burden laid on it greater than it can bear. No mother shall be treated unfairly on account of her child nor father on account of his child. An heir shall be chargeable in the same way if they both decide on weaning by mutual consent and after due consultation there is no blame on them. If you decide on a foster-mother for your offspring there is no blame on you provided you pay (the mother) what you offered on equitable terms. But fear Allah and know that Allah sees well what you do.³⁹

The Qur'an urges husbands to be kind and considerate to their wives even if they do not like them:

O you who believe! You are forbidden to inherit women against their will. Nor should you treat them with harshness that you may take away part of the marital gift you have given them except where they have been guilty of open lewdness; on the

contrary live with them on a footing of kindness and equity. If you take a dislike to them it may be that you dislike a thing and Allah brings about though it a great deal of good.⁴⁰

Marital disputes are to be handled privately between the parties whenever possible, in steps (without excesses or cruelty). If disputes are not resolved then family mediation can be resorted to. Divorce is seen as the last resort, which is permissible but not encouraged: “And when you divorce women and they have fulfilled their term (i.e. waiting period), either keep them in kindness or release them in kindness, and do not keep them, intending harm, to transgress (against them)”.⁴¹ Under no circumstances does the Qur'an encourage, allow or condone family violence or physical abuse and cruelty. The maximum allowed in extreme cases is a gentle tap that does not even leave a mark on the body while saving the marriage from collapsing. In case of divorce the Priority for custody of young children (up to the age of about seven) is given to the mother. A child later chooses between his mother and father (for custody purposes). Custody questions are to be settled in a manner that balances the interests of both parents and well-being of the child.

Polygamy:

Islam does not insist on polygamy instead monogamy is seen as the common practice. Moreover, Holy Qur'an and Hadith do not support any such idea except explicit restrictions are stated only for the sake of the welfare of the society, when Allah says:

If you fear that you can't treat orphans with fairness, then you may marry such women (widowed) as seem good to you; two, three, or four of them. But if you fear that you shall not be able to deal justly (with them), then only one.⁴²

This is the only verse that clearly explains the conditions for polygamy that is for the social wellbeing as to support orphans, divorcees however this practice will be based purely on justice. If the husband is able to maintain justice in his four wives he qualifies for polygamy however, Allah says “man will never do perfect justice with wives even if it is their ardent desire”.⁴³ It is evident that polygamy is a state that is purely conditioned for the maintenance of justice and Allah knows that man is unable to maintain this justice therefore he disqualifies this designation. Thus, Islam does not restrict or encourage polygamy but merely permitted on strict obligations of justice.

The clear descriptions of social role and family matters in Islamic vision for both genders reflect that Islam provides a society that offers an ideal and complete whole of the society by going through the social character of female Lindsay Jones said “women were not accorded ever with such legal status in other cultures until centuries later”.⁴⁴ However, in Pakistani context the woman is greatly victimized at social level. 70% of the population of Pakistan lives in the rural areas and the women of these areas spend their lives without even knowing their essential rights and get

died living in ignorance. However, most of them bear domestic violence and does not report these routine brutalities, and those who attempt to access courts for reporting the domestic injustice they are isolated and presented as evil figures even by their own blood relations. The incidents of acid throwing are also one of the grave forms of violence that put its victim in eternal struggles of being recognized as human being. Pakistani law provides different legislations on women rights and they can exercise all those rights which they can under any other international law. Although there is enough legislation being held on the status of woman and on the violence against women but still there is no such significant improvement shown regarding this issue. There are certain provisions in constitution of Pakistan which provides that every man or woman shall be provided the very fundamental rights. Everyone is equal before law and every one shall be treated without any discrimination. Article 25 of the Constitution of Pakistan, 1973 provides, that “All citizens are equal in the eyes of law and there cannot be any discrimination on the basis of sex.”⁴⁵

Legal/ Political Prospect:

Testimony:

In order to ensure justice and make the society peaceful, there must be some mechanism or a system of justice to control the crimes and offences of the society. The culprits and criminal must be punished in order to create deterrence and respect for the law. For the true administration of justice in the society we need to have a strong judicial system that ensures implementation of rights of the citizens and provides justice above board. The courts cannot proceed on abstract knowledge while adjudicating a matter, they have to heavily rely on evidences, testimonies and records of a matter in opposition to prove or disprove the issue. Therefore, in a judicial system, testimony and evidence stand on a high stature and footing. They secure high significance for determining the innocence or delinquency of the litigants. Testimony or evidence may be assessed in various forms like oral, in writing, confessional, oath, circumstantial and documentary.

Testimony is an account of facts before a court of law by a person, concerning any matter which he has personally seen, observed and perceived. Testimony (*Shahadah*) literally means information of what one has witnessed or seen or beheld with his eyes, declaration of what one knows, decisive information as in Encyclopedia of Islam different literal meanings are prescribed as under:

- i. To be present somewhere as opposed to be absent
- ii. See with one's own eyes, be witness of an event
- iii. Bear witness to what one has seen
- iv. Another sense more commonly used is that of witnessing, the declaration by means of which the witness to an event testifies to the reality of what he has seen or claims to have seen.⁴⁶

The verse 282 of Surah Al Baqrah in which Allah Almighty says:

O ye who believe! When ye contract a debt for a fixed term, record it in writing. Let a scribe record it in writing between you in (terms of) equity. No scribe should refuse to write as Allah hath taught him, so let him write, and let him who incurreth the debt dictate, and let him observe his duty to Allah his Lord, and diminish naught thereof. But if he who oweth the debt is of low understanding, or weak, or unable himself to dictate, then let the guardian of his interests dictate in (terms of) equity. And call to witness, from among your men, two witnesses. And if two men be not (at hand) then a man and two women, of such as ye approve as witnesses, so that if one of the two erreth (through forgetfulness) the one of them will remind. And the witnesses must not refuse when they are summoned. Be not averse to writing down (the contract) whether it be small or great, with (record of) the term thereof. That is more equitable in the sight of Allah and more reliable for testimony, and the best way of avoiding doubt between you; save only in the case when it is actual merchandise which ye transfer among yourselves from hand to hand. In that case it is no sin for you if ye write it not. And have witnesses when ye sell one to another, and let no harm be done to scribe or witness. If ye do (harm to them) lo! it is a sin in you. Observe your duty to Allah. Allah is teaching you. And Allah is knower of all things.⁴⁷

In Islamic perspective there are two issues regarding testimony of women, firstly, testimony of woman is half to a man, Secondly, non- acceptance of testimony in Hudud and Qisas cases.

First one is on the basis of Surah Al Baqrah, verse, 282 that two women equal to a man in recording testimony.

There are some misconceptions and common misinterpretations of the verse:

- a) It is not a general rule in the Qur'an that the worth of a female's witness is only half the male's because jurist do accept testimony of a single woman in some matters.
- b) This verse relates to the testimony on financial transactions which are often complex and laden with business and that time women were not involved in businesses but now they are competing to men.
- c) The duty of a judge is to evaluate the credibility, knowledge and experience of any witness and the specific circumstances of the case then decide the matters in issue.

Secondly, Testimony of woman in Hudud and Qisas:

The Muslim classical jurists differ on the testimony of women in *Hudūd* cases. The majority of Muslim classical jurists hold that a woman cannot give testimony in *Hudūd* cases at all. But Imam Ibn-e-Hazm, Imam Ibn-e-Taimiyya,

Imam Ibn-e-Qayyim and the modern scholars opine that a woman can give testimony in *Hudūd* cases as well like in other matters. Both the groups rely on the Holy Qur'an, the *Sunnah*, traditions of companions and their own reasoning while arguing on the matter.

The testimony of a woman is not acceptable in *Hudūd* cases whether she tenders it alone or along with men. This is the view of Majority of Muslim Jurists from four schools of thought.⁴⁸ The same view is upheld by Saeed Ibn Musayyib, Al sha'bi, Al Nakh'i, Al Zuhri, Rabi'ah, Abu Thaur and others.⁴⁹ The view point of Imam Ibn-e-Hazm is that the testimony of woman is admissible and acceptable in *Hudūd* cases but there must be two women against the testimony of one man.⁵⁰ Beside Imam Ibn-e-Hazm there are some other opinions about the admissibility of the testimony of woman as Tawoos,⁵¹ Ata and Hammad.⁵² Imam Ibn-e-Taimiyya and Imam Ibn-e-Qayyim make admissible the testimony of a woman in *Hudūd* cases.⁵³ Imam Ja'fir Sadiq also accepts the testimony of woman in *Zina* case.⁵⁴ The same viewpoints have been upheld by some of the other modern scholars like Mahmood Ahmad Ghazi,⁵⁵ Maulana Umar Usmani,⁵⁶ Javed Ahmad Ghamidi⁵⁷, and Maulana Muhammad Taseen⁵⁸ that the testimony of a woman is admissible and acceptable in *Hudūd* cases.

The fundamental argument of classics relied upon the Qur'anic verses where '*Adad*, *Ma'dud*, and Masculine, Feminine words have been used, related to the testimony and witnesses but we have to see that the general expression of the text of the Holy Qur'an is such that it uses masculine words and connotations for both men and women unless women are specifically excluded from the text. This expression not only signifies the Qur'an and the *Sunnah* but a general expression of the Arabic language which cannot be denied. Where the Qur'an has used both masculine and feminine words simultaneously it does not mean that the women were not to be addressed by masculine words but the specific use of feminine words addressed to women is to signify the importance of women on the whole.⁵⁹ For example:

Verily, the Muslims (those who submit to Allah in Islam) men and women, the believers men and women (who believe in Islamic Monotheism), the men and the women who are obedient (to Allah), the men and the women who are truthful (in their speech and deeds), the men and the women who are patient (in performing all the duties which Allah has ordered and in abstaining from all that Allah has forbidden), the men and the women who are humble (before their Lord Allah), the men and the women who give *Sadaqât* i.e. *Zakat*, and alms, the men and the women who observe *Saum* (fast) (the obligatory fasting during the month of *Ramadân*, and the optional *Nawâfil* fasting), the men and the women who guard their chastity (from illegal sexual acts) and the men and the women who remember Allah much with their hearts and

tongues. Allah has prepared for them forgiveness and a great reward
i.e. Paradise.⁶⁰

Wherever the Holy Qur'an has used only masculine words they automatically and undoubtedly include address to the women as well. The Muslim Classical jurists do not accept the testimony of a woman in *Hudūd* cases. They take support for their opinion from the verses of the Holy Qur'an based on 'adad, ma'dud, masculine and feminine words, used for the witnesses and testimony. However, it has been pointed out that this is merely a juristic opinion and is not conclusive text of the Holy Qur'an or Sunnah.

As against the view of Muslim classical jurists, there are some great scholars like Imam Ibn-e-Hazm, Imam Ibn-e-Taimiyya, Imam Ibn-e-Qayyim, Ata bin Abi Rabah, Hammad bin Abi Salman and other modern scholars like Mahmood Ahmad Ghazi, Maulana Muhammad Taseen and Maulana Umar Usmani tend to accept the testimony of woman in *Hudūd* cases. They argue that the views of Muslim classical jurists is not the absolute principle of Shariah, rather it is based upon the juristic opinion and thus open to change. Therefore, there is nothing in Shariah, which hampers the acceptance of woman's testimony in *Hudūd* cases. It is hereby concluded that there is no express bar on the admissibility of the testimony of woman in *Hudud* and other cases; however quantum of witnesses would certainly be established considering two women equal to one man in order to establish the corresponding offence whether forms *Hudud* or *Ta'zir*, as provided explicitly in the Holy Qur'an.

Conclusion:

After locating the relationship between feminism and Islam, in the context of gender equality, it has been observed that Islam upholds equality of all believers instead of simply propagation for its misogyny. By delineating references from Qur'an and Hadith. It has been concluded that Islam is a religion that proposes a systematized, genderless society that has defined paths for every aspect of a welfare society. The individuals in this society have their defined roles and responsibilities for which they are accountable. Islam does not draw any discriminatory line between both genders on the basis of their defined roles instead the confinement is derived from some Hikmah that is explicitly defined and explained through references from Qur'an and Sunnah. It has been learned that woman in Islam is free to exercise her rights in social, political and legal aspects of the society with specific reference to her socio-political participation in Pakistan. However, the patriarchal construction of Pakistani society causes exploitation and victimization of women indicates a definite departure from the true spirit of Islam. The interpretation of Islamic paradigms by male orthodoxy reveals that proposed Islamic gender equality is a dream in a society like Pakistan. Thus, woman is deprived of her essential dignity as human being and she is oppressed and suppressed within her domestic sphere. However, the agenda of feminists and the exemplification of references from Qur'an and Sunnah provide a

substantial evidence of gender indiscrimination in an ideal society that can be possible only if both genders identify their roles in true Islamic spirit.

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